



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Monty Krieger and Susan L. Acton

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Serial No.: 08/765,108

Group Art Unit: 1646

Filed: March 27, 1997

Examiner: J. Ulm

For: CLASS BI AND CI SCAVENGER RECEPTORS

Assistant Commissioner  
for Patents  
Washington, D.C. 20231#34  
M.G.J.  
7/13/02

## DECLARATION UNDER 37 C.F.R. 1.132

Sir:

I, Monty Krieger, hereby declare that:

1. I am an inventor of the above-identified patent application.
2. I attended the oral hearing in this application at the Board of Appeals on August 16, 2001. At the hearing I referred to studies we had conducted comparing the binding of SR-BI and CD36, to acetylated LDL.
3. The binding of both SR-BI and CD36 is compared as shown in Figure 5 of our application as filed. These binding assays were conducted as described on pages 21, 23 and 28-29, in our application. The results in Figure 5 clearly show differences in binding based on a competition assay, with significant reduction in binding by SR-BI to acetylated LDL when LDL is present but no significant difference in binding by CD36 to acetylated LDL. Figure 5 unequivocally shows a fundamental difference between the properties of SR-BI and CD36. The

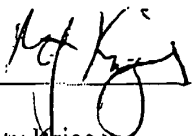
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figure shows that, unlike SR-BI, CD36 can bind acetylated LDL in a fashion essentially independent of LDL under the conditions of the experiment, i.e., in the presence of 10% serum.

4. At the oral hearing, I referred to subsequent studies comparing binding of SR-BI and CD36 that were conducted under different conditions, i.e., in the absence of serum. The results of these studies are shown in the attached Figure. The results demonstrate that in the presence of 5-10% serum, binding of CD36 to acetylated LDL is independent of LDL (confirming the data in Figure 5 of our application), but that in the absence of serum, LDL partially inhibits binding of CD36 to acetylated LDL.

5. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: July 3, 2002

  
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Monty Krieger

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